

**BEFORE THE SOUTH DAKOTA ONE CALL NOTIFICATION BOARD**

---

**IN THE MATTER OF THE COMPLAINT  
FILED BY NORTHERN NATURAL GAS  
COMPANY, HARRISBURG, SOUTH  
DAKOTA, AGAINST L&B  
EXCAVATING, BERESFORD,  
SOUTH DAKOTA, FOR AN INCIDENT  
OCCURRING ON NOVEMBER 9, 2012,  
WEST OF 302<sup>ND</sup> ST. AND 477<sup>TH</sup> AVE. ON  
THE SOUTH SIDE OF THE HIGHWAY  
NEAR ALCESTER, SOUTH DAKOTA**

**OC12-016**

**ORDER ADOPTING  
ENFORCEMENT PANEL  
RECOMMENDATION TO THE  
SD ONE CALL BOARD AND  
TO PURSUE COLLECTION  
ACTION IF NECESSARY**

---

On November 10, 2012, the South Dakota Public Utilities Commission received a complaint from Northern Natural Gas Company (herein "Northern") against L&B Excavating of Beresford, South Dakota. The complaint alleges that on or about November 9, 2012, L&B Excavating dug before the start time on a ticket involving a high pressure gas line L&B Excavating responded to the Complaint on November 27, 2012. In its response L&B Excavating admits the incident occurred. On December 12, 2012, pursuant to SDCL 49-7A-22 a panel of five One Call Board members ("Panel") convened. The Panel met to determine whether probable cause exists to believe the violation occurred as described in the complaint.

The Panel found probable cause to believe a violation of SDCL 49-7A-8 occurred. Specifically, the Panel found L&B Excavating dug prior to the start time listed on the ticket. The Panel found the violation to be unintentional.

The Panel found it proper to assess a One Thousand Dollar (\$1,000) penalty with Seven Hundred Fifty Dollars (\$750) suspended of the penalty on certain conditions.

**A total of Two Hundred Fifty Dollars (\$250) is due within thirty days of issuance of this Order.**

**The suspension conditions are as follows:**

- 1) L&B Excavating shall make payment of the Two Hundred Fifty Dollar (\$250) portion of the penalty which was not suspended within thirty days of issuance of this Order.
- 2) L&B Excavating must not be found to have committed a violation of SDCL 49-7A or ARSD 20:25 within the next twelve months.
- 3) L&B Excavating shall attend a spring 2013 South Dakota One Call excavator meeting.
- 4) L&B Excavating shall write a letter to the South Dakota One Call Board detailing a plan to avoid future violations.

If any of the conditions are not met, the entire One Thousand Dollar Penalty (\$1,000) will be immediately due and owing.

At its scheduled meeting on February 20, 2013, the South Dakota One Call Board, pursuant to 49-7A-27, reviewed the Panel's procedure and approved its findings.

It is therefore:

ORDERED, that the South Dakota One Call Board adopts the recommendations of the Panel as a final resolution of this complaint. The Panel's findings are attached hereto and shall be considered fully incorporated herein; it is further

ORDERED, that if the penalty is not paid, the Board shall pursue any rights it has under the law regarding collection; it is further

ORDERED, that this docket shall be closed upon receipt of payment.

The South Dakota One-Call Notification Board has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-7A, specifically SDCL 49-7A-5, 49-7A-18, 49-7A-20, 49-7A-22, and 49-7A-26.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile by first class mail, or by other electronic means.



Larry L. Janes, Executive Director

Date 2-20-2013

BY ORDER OF THE SD ONE-CALL BOARD:

Dated at Miller, South Dakota  
This 20<sup>th</sup> day of February, 2013

  
Kurt Pfeifle, Chairman